

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHICAGO TITLE INSURANCE COMPANY,

Plaintiff,

v.

RUNKEL ABSTRACT AND TITLE COMPANY,

Defendant.

ORDER

08-cv-341-bbc

On April 22, 2009 this court held a telephonic status conference at counsel's request to determine the most efficient way to resolve what remains of this case following the court's ruling on summary judgment. As a starting point, I struck the remainder of the calendar, including the May 20, 2009 bench trial, and set a briefing schedule on the parties' two questions. Here's why:

The parties need clarification whether the court's order granting partial summary judgment to plaintiff on liability precludes defendant from challenging whether plaintiff should be awarded damages equal to the amount plaintiff paid to the injured third party (\$833,250). If the court has accepted plaintiff's payout as the appropriate amount of substantive damages, then there is nothing to try on this point and all that's left is the parties' dispute over attorneys' fees, discussed in the next paragraph. If, however, the court views the amount of substantive damages as an open question, then there may be a need for a trial on this issue.

If the court deems the substantive damages issue closed, then the parties want to know if the court is amenable to resolving their dispute over attorneys fees (for the underlying transaction and for this lawsuit) on the billing records and the briefs. If so, then both sides would like to avoid the cost of expert witnesses and the expense of a trial.

Not later than May 1, 2009, plaintiff will file and serve its brief on these two points, with defendant's response filed and served by May 8, 2009, and any reply due by May 15, 2009. What happens next depends on the court's rulings on the two points raised above.

It is ORDERED that the trial date in this case is STRICKEN and is replaced by the briefing schedule set forth above.

Entered this 22nd day of April, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge